

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1660.00
COMPLAINT INVESTIGATOR:	John Hill
DATE OF COMPLAINT:	November 29, 2000
DATE OF REPORT:	January 12, 2001
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	March 1, 2001

COMPLAINT ISSUES:

Whether the Portage Township Schools and the Porter County Education Interlocal violated:

- 511 IAC 7-17-3 and 511 IAC 7-27-2 with regard to the school's alleged failure to provide the parent with adequate notice of the case conference committee (CCC) meeting scheduled on November 6, 2000.
- 511 IAC 7-27-3(a)(3) with regard to the school's alleged failure to include a general education teacher at the CCC that convened on November 6, 2000.
- 511 IAC 7-27-7(d) with regard to the school's alleged continued implementation of an individualized education program (IEP) that is more than 12 months old in the absence of extension by operation of the stay-put provisions of Article 7.
- 511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's IEP, specifically, failing to allow the student to participate in the general education physical education class as described in the IEP.
- 511 IAC 7-27-6(a)(4)(B) and 511 IAC 7-21-9(c) with regard to the school's alleged failure to include in the student's IEP the CCC's determination that the student will not participate in a particular statewide or local assessment, including the reasons the assessment is not appropriate, the alternate assessment in which the student will participate, and a description of the alternate assessment.

During the course of the investigation, the following additional issues were identified:

- 511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the school's alleged failure to ensure the student's teacher of record:
 - a. regularly monitored the implementation of the student's IEP, and
 - b. ensured that the supplementary aids and services and program modifications were implemented in accordance with the student's IEP.
- 511 IAC 7-12-1(k)(6) with regard to the school's alleged failure to include the projected dates for initiation of services in the student's May 10, 2000 IEP.
- 34 CFR 300.347(a)(7) with regard to the school's alleged failure to include in the student's IEPs dated, November 18, 1999 and May 10, 2000, a statement of how the student's

parents will be regularly informed, at least as often as parents are informed of their nondisabled student's progress of the extent to which the student's progress is sufficient to enable the student to achieve the goals by the end of the year.

The original deadline for this report was December 29, 2000. However, because additional information was needed during the time the school was on holiday break, an extension of time until January 12, 2001, was granted.

FINDINGS OF FACT:

1. The student is an eleven-year-old, sixth-grader who has been determined eligible for special education and related services due to Autism.
2. The student's CCC convened on October 26, 2000. The CCC did not complete its work, and the participants agreed they needed to meet again. The parent was at the October 26, 2000, CCC meeting and was aware the CCC would meet again on November 6, 2000. However, the school did not provide the parent with written notice of the November 6, 2000 CCC meeting. The school has provided the parent with written notice of all subsequent CCC meetings.
3. The student is currently enrolled in a general education class. The general education teacher was present at the CCC when it convened on October 26, 2000. However when the CCC reconvened on November 6, 2000, the general education teacher was not present. At the beginning of the CCC meeting on November 6, 2000, the committee agreed that the general education teacher did not need to attend at that time, but if a pertinent issue came up, the general education teacher would be included in the CCC meeting.
4. The student's IEP was initiated on November 18, 1999 and expired on November 17, 2000. The school continues to implement the expired IEP. There is no indication that the CCC agreed to the continued implementation of the expired IEP, and no interim agreed-upon IEP has been developed.
5. The student's May 10, 2000, CCC Summary/IEP indicates that the student is to participate in a general education physical education class with general education peer modeling. The school acknowledges the student is currently in an adapted physical education class with no general education students.
6. The student's May 10, 2000, CCC Summary/IEP does not indicate the dates the personal management goal or the general education physical education class are to be initiated.
7. The student's May 10, 2000, CCC Summary/IEP indicates that the student will not participate in statewide testing but will participate in the state alternative assessment. However there is no indication why the alternative assessment is recommended and there is no description of the alternative assessment.
8. The student's November 18, 1999, CCC Summary/IEP and May 10, 2000, CCC Summary/IEP do not include a statement on how the student's parent's will be informed of the student's progress and the extent to which the student's progress is sufficient to achieve the annual goals by the end of the year.

CONCLUSIONS:

1. Findings of Fact #2 and #3 demonstrate that the school failed to provide the parent adequate notice of the CCC meeting scheduled on November 6, 2000. Therefore, violations of 511 IAC 7-17-3 and

511 IAC 7-27-2 are found. However, since adequate notice has been provided for subsequent meetings, no additional corrective action is required.

2. Finding of Fact #3 reflects that the school failed to include a general education teacher at the CCC that convened on November 6, 2000. However, because the general education teacher participated in the first CCC meeting and was available to participate in the reconvening of the first CCC meeting and because the CCC agreed that the general education teacher would be included if needed, no violation of 511 IAC 7-27-3(a)(3) is found.
3. Finding of Fact #4 indicates that the school continued to implement an IEP that was more than 12 months old in the absence of CCC agreement or extension by operation of the stay-put provisions of Article 7. Therefore, a violation of 511 IAC 7-27-7(d) is found.
4. Finding of Fact #5 establishes that the student's May 10, 2000 IEP stated the student was to participate in general education physical education classes, but the school placed the student in an adaptive physical education class. Therefore, a violation of 511 IAC 7-27-7(a) is found.
5. Finding of Fact #7 reflects that the school failed to indicate the reason why the statewide assessment was not appropriate. Therefore, violations of 511 IAC 7-27-6(a)(4)(B) and 511 IAC 7-21-9(c) are found.
6. Findings of Fact #4, #5, and #6 demonstrate that the student's teacher of record failed to monitor the student's IEPs dated November 18, 1999 and May 10, 2000, as the student's IEP was not implemented as written. Therefore, violations of 511 IAC 7-27-7(b) and 511 IAC 7-17-72 are found.
7. Finding of Fact #6 indicates that the school failed to include the projected dates of initiation for the personal management goal and participation in the general education physical education class in the student's May 10, 2000 CCC Summary/IEP. Therefore, a violation of 511 IAC 7-12-1(k)(6) is found.
8. Finding of Fact #8 reflects that the school failed to include in the student's IEPs dated November 18, 1999 and May 10, 2000, a statement of how the student's parents will be regularly informed, at least as often as parents are informed of nondisabled student's progress of the student's progress and the extent to which the student's progress is sufficient to enable the student to achieve the goals by the end of the year. Therefore, a violation of 34 CFR 300.347(a)(7) is found.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Portage Township Schools and the Porter County Education Interlocal shall:

1. In-service all appropriate staff regarding the requirements as specified in:
 - 511 IAC 7-17-3;
 - 511 IAC 7-27-2;
 - 511 IAC 7-27-3(a)(3);
 - 511 IAC 7-27-7(d);
 - 511 IAC 7-27-7(a);
 - 511 IAC 7-27-6(a)(4)(B);
 - 511 IAC 7-21-9(c);
 - 511 IAC 7-27-7(b);

- 511 IAC 7-17-72;
- 511 IAC 7-27-6(a)(5); and
- 511 IAC 7-27-6(a)(7)(B).

Submit documentation to the Division that the in-service has been completed no later than February 28, 2001. The documentation must include a list or agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.

2. Convene a CCC meeting to:
 - a. develop an IEP for the student; and
 - b. determine how the parents will be informed of the extent to which the student's progress is sufficient to enable the student to achieve the goals by the end of the year.

Submit a copy of the CCC Summary and the IEP to the Division no later than January 31, 2001. If the CCC is not able to develop an agreed-upon IEP by January 31, 2001, then the school must pursue mediation or a due process hearing by February 1, 2001.